

Absence Management

How to 3: Management interviews and investigations

Advice for line managers

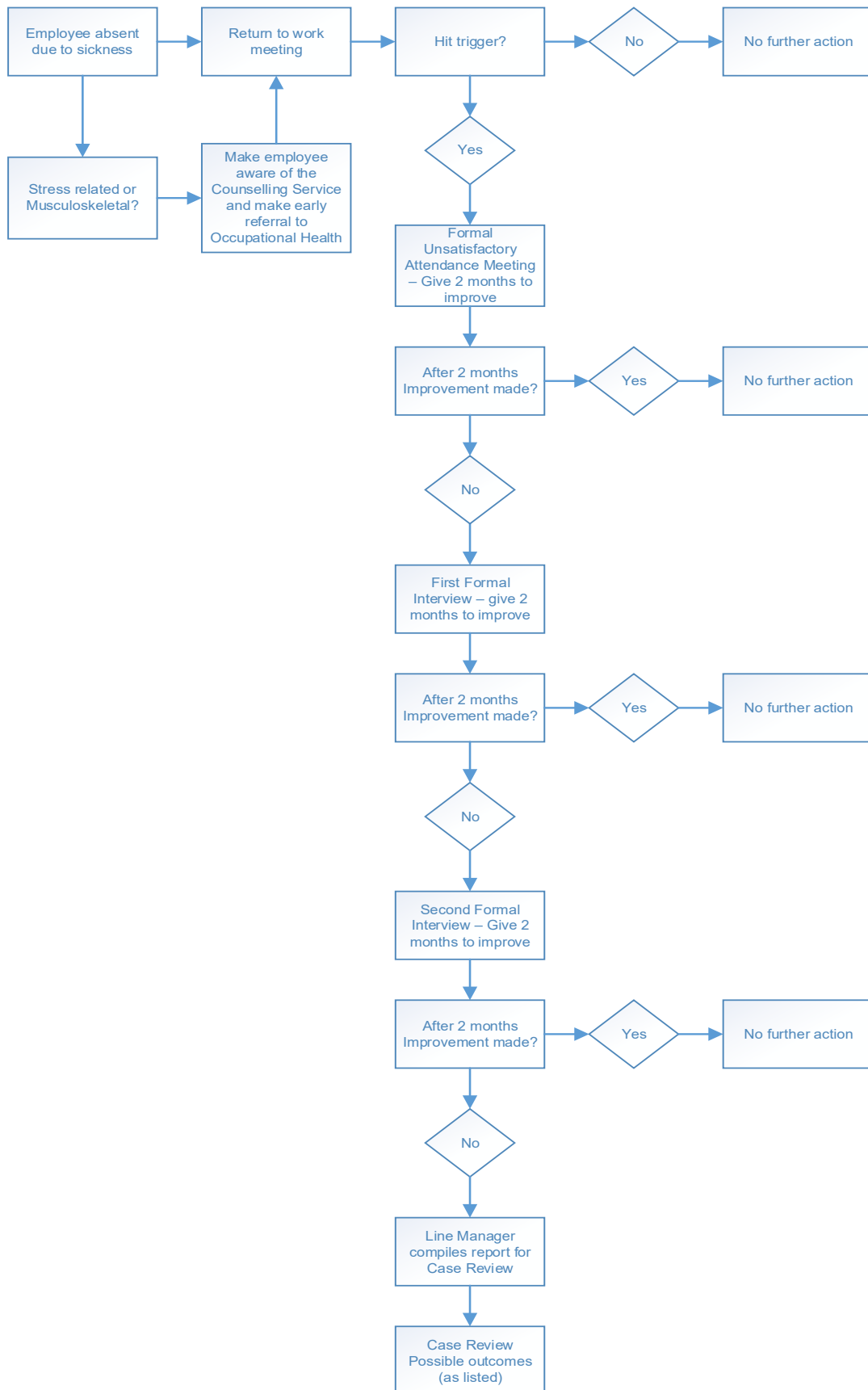
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Introduction

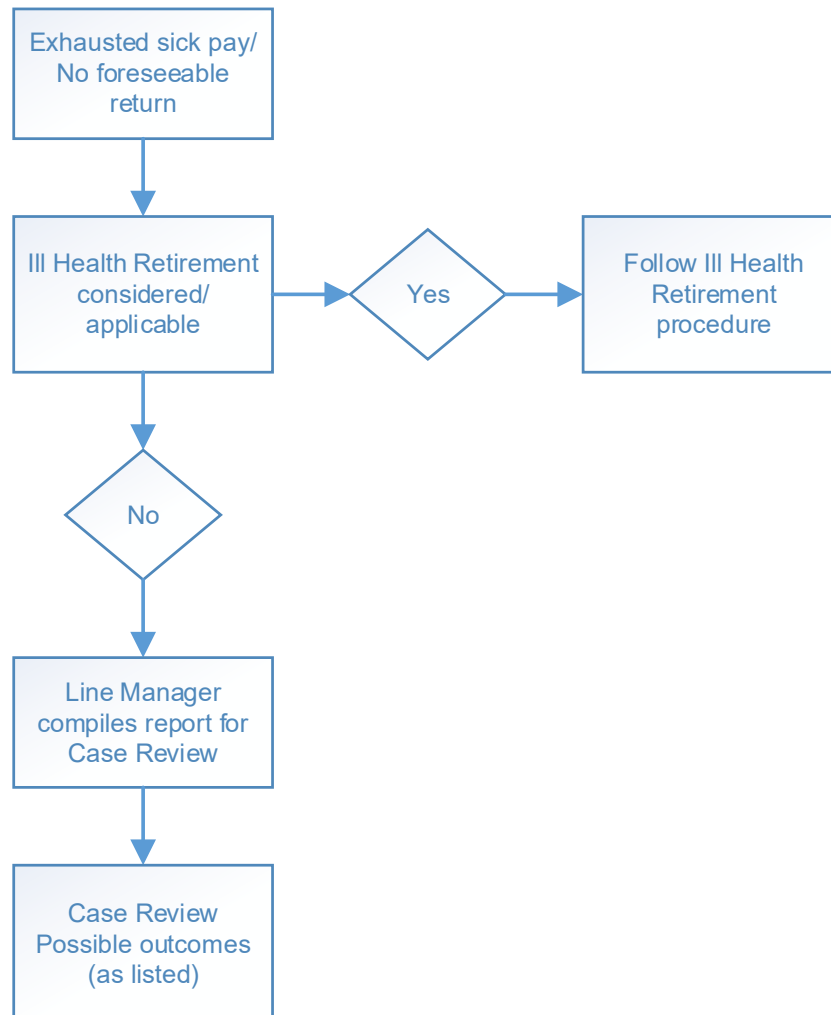
This guide helps you to identify and manage patterns of sickness absence. In conjunction with the return to work discussions, timely and appropriate absence management forms part of day to day management responsibilities.

After any episode of sickness absence, irrespective of length, all employees can expect to have a return to work meeting with their manager.

Short-Term Absence Flowchart



Long-term absence Flowchart



Return to work meetings

These meetings are expected to:

- Establish the nature of the sickness.
- Establish if the employee is fully recovered and capable to carry out their role safely.
- Determine whether further support, assistance or counselling is required.
- Give the employee the opportunity to discuss their sickness record and any other relevant details.
- Discuss the likelihood of any similar absences occurring.
- Assess the impact of the absences for service delivery.
- Draw to the attention of employees any management concerns relating to their attendance e.g. emerging patterns of absence, failure to follow absence management procedures and any expectations for improvements.
- Inform the employee that any such concerns may result in further investigation and potential for the matter to progress to the formal stage, invitation to attend a formal interview.

At this stage it is hoped that the informal discussion may be sufficient to prevent a problem from developing further i.e. by implementing changes which may prevent further absence. It is the employee's responsibility to inform their manager if they have any health concerns which may impact on their ability to perform the duties expected of them within their role.

The return to work form should be completed by the line manager on Business World. Guidance is available [here](#)

Home visits

With the agreement of the individual, where employees are absent from work and are unable to attend a meeting in work place, a home visit can be arranged.

- Home visits should involve a minimum of two people, one of whom should be from HR. In addition, the employee should be given the opportunity to have a colleague or trade union representative present if they so wish.

Annual leave

Employees who are absent due to ill health continue to accrue statutory holiday entitlement whilst off work. Where sick pay entitlement has been exhausted and in exceptional circumstances, employees may request to take accrued annual leave during periods of ill health in line with the expectations of Shropshire Council's Annual Leave Entitlement Policy.

- Any statutory holiday entitlement that isn't used because of illness may be carried over into the next leave year. However, employees are expected to make every reasonable attempt to take accrued leave periodically throughout the current leave year.
- An employee on sick leave can request annual leave. Where an employee makes such a request during their sickness absence, normal leave booking arrangements apply and leave should be booked in the normal way. The decision to take annual leave rather than sick leave should be the employee's and they should not be placed under pressure in making that decision. This would not interrupt the sickness absence, which would be continuous.

Where an employee's contract is ended due to ill health, any accrued annual leave will be paid in their final salary. If more annual leave has been taken than the employee is entitled to then this will be recovered.

Disabilities

If an employee's absence is because of a disability or their illness leaves them with a mental or physical condition which falls within the definition of a disability, Shropshire Council will consider all reasonable adjustments to support employees and enable them to carry on working.

Trigger points for formal procedure

Sickness trigger points that require managers to enter a formal procedure are:

- A return to work following a continuous spell of absence of 4 weeks or longer covered by a series of Doctors notes.
- 4 or more absences in a 12-month period.
- Identified pattern of sickness "habits" emerging.
- Any absences that are musculoskeletal or stress related must be referred to Occupational Health without delay.
- Where previous discussions with employees have not resulted in improvements.
- Where there is evidence that an absence is not genuine.

When any of the above trigger points (individually or a combination thereof) are activated Managers are expected to draw together all relevant information and invite the employee to a formal interview. Early intervention is key in trying to identify any underlying medical explanation or whether other personal or domestic circumstances are causing the absence.

Although this is the first formally recorded interview, the discussion should be as relaxed and informal as possible. The objective is to clarify precisely the facts and circumstances surrounding the employee's absence.

Where employees repeatedly and successfully complete a monitoring and review period but then subsequently reach another trigger point then the process may be instigated at the next stage. Advice should be sought from Human Resources in this instance.

Employees may wish to invite a colleague or Trades Union representative of their choice to formal meetings; a representative from HR may also attend.

Stage 1:

First interview

At this stage managers will write to the employee inviting them to attend a formal interview; providing a minimum of 2 days' notice to attend

In order to help the employee feel comfortable, he/she should be reassured that the purpose of the interview is to express management concerns and to explore any potential mitigating circumstances.

Ahead of the meeting the Manager must gather the following information for discussion:

- The exact number of days/occasions of sickness in the last 12 months
- The nature of the illness(s) - list if necessary
- Details of any concerns regarding the way the employee has followed the reporting/certification procedures.
- Evidence of any absence patterns.
- Are there any workplace, personal or domestic circumstances which may be the cause and have been discussed informally?
- Evidence of any deterioration in job performance.
- Medical advice and action points where implemented informally.

Stage 1:

During the Interview

Although this is the first formally recorded interview, the discussion should be as relaxed and informal as possible. The objective is to clarify precisely the facts and circumstances surrounding the employee's absence. It is essential that the employee is given the opportunity to explain the reasons for their absences and any attempts they are making to resolve any issues.

In addition:

- Employees should expect managers to give details of the current level of absence, the impact on the work of the service and provide evidence to support any concerns.
- Managers and employees should discuss any potential underlying medical explanation or whether other workplace, personal or domestic circumstances are causing the absence.
- Managers must inform the employee of improvements expected and note the employee's views of how they are trying to make improvements.
- Where appropriate, changes in working arrangements should be explored, however these arrangements should not detract from the prime concern of absence improvement.
- Where an underlying medical explanation is uncovered it may be agreed between Manager and Employee to make a referral to Occupational Health for further advice.
- Employees should be given time to implement any proposed improvement plan and in all cases a built-in review of the plan should be held 2 months after the original meeting. Details of the First Formal Interview should be recorded and a copy given to the employee.

Stage 1:

Following a period of review

At the conclusion of the 2 month review period the employee will be advised whether or not the attendance has improved to the level required and the outcome confirmed in writing

In particular:

- Where there has been significant sustained improvement the process will conclude.
- If however there has been little to no improvement in attendance an Occupational Health report will be sought; the employee will be referred to Occupational Health to establish whether there are any underlying medical causes for the absences. Where there is no medical advice to support frequent short-term absences and/or further absences have occurred, employee should be asked to consult a doctor to establish whether medical treatment is necessary.

Stage 2:

Second review interview

On receipt of a medical report the manager will invite the employee to discuss the content of the report. Dependent upon the medical advice received the following actions may apply:

- Where the absence may be long term and further time for treatment and recuperation is required, a further reviewing period may be agreed e.g. cases of long term absence where treatment is likely to exceed 8 weeks. The review period should be held no more than 2 months from the date of the second interview.
- In cases where there is an underlying medical reason a plan for improvement should be agreed and implemented. A further review period will be agreed and should be held no more than 2 months from the date of the second interview.
- Where a previous plan for improvement has been implemented but there have been insufficient improvements or improvements have not been sustained, the manager will inform the employee that the case will be referred to a senior manager and a management report of the facts collated (move to stage 3).

- In all cases, details of the interview will be noted and a copy given to the employee. The employee should also be informed of the expected improvements and advised of the likely consequences if it doesn't happen.

Where the review process continues, a further period of 2 months will be agreed with the employee. At the end of the review period a meeting will be held to conclude;

- Where attendance has improved and has been sustained, the process will be ended.

or;

Following the period of formal review it will be necessary to implement a Stage 3: Case Review where there has been:

- a deterioration;
- attendance has not improved;
- a medical report does not indicate any underlying causes for the absences;
- there is no prospect of a return to work;
- sick leave entitlements have been exhausted;
- there is evidence of repeated patterns of absence;
- Or any combination of these.

Where the decision has been taken to proceed to a Stage 3, managers must ensure an up to date medical report is available (dated within two months of the Stage 3 Case Review Meeting).

In all cases the employee will be advised whether or not the attendance has improved and the agreed action(s) from the review meeting confirmed in writing.

Stage 3:

Case review meeting

Managers are expected to collate their investigation findings and produce a report of the facts. The report should include evidence of all support measures offered to employees, the outcome of formal review meetings and any medical advice given in relation to the employees' health.

This report should be submitted to a Senior Manager (with the authority to dismiss for cases which may result in the termination of employment) within one month of the last review meeting.

On consideration of this report the Senior Manager will;

- call a Case Review Meeting by inviting:
 - a) The employee to attend giving them right to representation.
 - b) The manager who will be expected to present their report;
 - c) A member of Human Resources;
- At this stage consideration will be given to addressing absence concerns by way of capability on medical grounds which may include termination of employment on grounds of capability due to ill health.
- In cases where there is no good reason for the absences employees should be aware that a decision may include dismissal for unauthorised absence. Unauthorised absence is considered as Gross Misconduct in accordance with the Disciplinary procedure. In such cases Managers making the decision must follow the process set out in the Disciplinary procedure.
- The Senior Managers decision will be communicated in writing to the employee within 2 working days of the meeting unless further investigation is required. The employee should be informed of their right to appeal within this letter.
- Managers must conduct a further review at the end of the sanction timescale. Where there have been no further concerns, managers will meet with the employee, inform them of the outcome and remove the sanction from file.
- Whereby a current sanction is noted on file and additional concerns arise, Managers must review their concerns with the employee informally before using discretion to re-enter the formal stages above for further investigation.

Stage 3:

Case review meeting outcomes

The Council may consider all of the following sanctions.

These may be combined with other additional sanctions or imposed in isolation. They will normally be combined with a warning issued at the appropriate level. The power to impose the following sanctions forms part of the employee's terms and conditions of employment.

- **First written warning**

If poor attendance is considered to be serious, or if deemed a breach of code of conduct a First Written Warning will be issued to the individual by a Senior Manager.

It will detail the complaint/concerns, the improvement required and the timescale. It will make reference to actions which may be taken if the desired improvements are not made.

A copy of the First Written Warning will be retained by the line manager and disregarded after 6 months, subject to satisfactory improvement.

- **Final written warning**

If there is still a failure to improve attendance, or where attendance is of a sufficiently serious nature to warrant more than a written warning but is insufficient to warrant dismissal, then a FINAL WRITTEN WARNING will be given. This will detail the complaint/concern and will advise that, without the desired improvement in attendance within the timescale indicated, then further action in line with the policy may be taken.

A copy of the final written warning will be retained by the Line Manager and disregarded after a specified period of 12 months, subject to satisfactory improvements.

- **Temporary or permanent transfer to another role, or location (with agreement of a manager with delegated authority to dismiss)**

When an employee is not capable of undertaking their contractual role due to ill health, the employee may be transferred on a temporary or permanent basis to work in another role, or location. The duration of any transfer and the new role/location will be set out in writing in the decision letter notifying the employee of the outcome of the Case Review Meeting.

Where possible, transfer will normally be on the employee's existing pay and benefits (or reasonable alternative agreed by HR). The Council will not normally transfer the employee to work at another location which they cannot reasonably reach from their permanent home address.

- **Temporary or permanent removal of some of the employee's existing duties and/or re-assignment of new duties to the employee (with agreement of a manager with delegated authority to dismiss)**

The Council may remove some of the employee's existing duties and may require them to carry out other duties instead on a temporary or permanent basis as a reasonable adjustment. This will not normally involve any change to the employee's pay and benefits. The duration of any removal/re-assignment of duties and the duties varied will be set out in the decision letter notifying the employee of the outcome of the Case Review Meeting.

- **Compulsory Training**

The Council may require the employee to undergo compulsory training (at the Council's expense) in relation to any area which has been highlighted as a contribution to ill health. For example, any employee found to have committed a breach of Health & Safety rules which resulted in an injury at work may be required to undergo appropriate Health & Safety training.

Failure to undergo the training or to participate in it fully and willingly may constitute a disciplinary offence. The nature of the training required and date by which it must be completed will be set out in the decision letter notifying the employee of the outcome of the Case Review Meeting.

Termination of employment on the grounds of capability due to ill health

Whilst Shropshire Council will seek to support employees who are genuinely sick, it cannot offer indefinite support. This decision will be made by officers with delegated authority to dismiss.

- Where the criteria for Ill Health Retirement is not applicable and there is no prospect of a return to work, the decision may be taken at the Case Review Meeting to terminate employment on grounds of capability due to ill health.
- If the decision is taken to end employment, employees will be served notice (appropriate to their length of service) to terminate their contract.

- Accrued annual leave may be paid on termination of employment inline with Shropshire Council's Annual Leave Entitlement Policy.

Appeals

An employee shall have a right of appeal against any action taken at any stage of the Absence Management Policy and should be notified of this right in the written confirmation of the action taken.

In all cases, an intention of appeal should be notified in writing to the Appeal Hearing Officer concerned within five working days (Monday – Friday excluding Bank Holidays) of receipt of the letter from the hearing Officer confirming the sanction that has been applied. The intention to appeal should include the reason for the appeal and the points in dispute.

- Appeals against written warning/final written warnings should be heard by an Appeal Hearing Officer (who was not involved in the original decision) or their deputy.
- Any appeals against dismissal shall be heard by an Appeal Committee comprising three elected members. HR will have responsibility for convening the Committee and appointing a HR Adviser to the Appeal. The Appeal Hearing where possible will be arranged during the employees notice period and within a maximum period of 12 weeks from the date of appeal. Any officer who previously addressed the hearing prior to the appeal will not be appointed as Adviser at the appeal stage.
- Appeals will be by way of a re-hearing the entire case. Wherever possible, evidence which has been cited at the earlier hearings, and which is not disputed, should be agreed and circulated in advance of the appeal.

Procedure to be followed prior to Appeal

- Upon receiving notification of the intention to appeal, the HR Adviser will write to the employee giving them at least ten days notice of the time and date of the hearing. A copy of this procedure will be attached to the letter. The employee should be informed of the right to be accompanied by a trade union representative or work colleague.
- The employee will be asked to acknowledge receipt of the letter notifying them of the appeal date. The employee should inform the HR Adviser in writing whether it is their intention to be represented and if so, the name and position of the person who will represent them. The employee or their representative should also notify the HR Adviser, at least five working days in advance of the hearing, of the names of any witnesses it is their intention to call. At least five working days before the appeal, it is the responsibility of the employee or the representative to copy to the Adviser any new documentation which they wish to introduce into the proceedings.

The HR Adviser will copy this information to the Appeal Committee/ Appeal Hearing Officer and to the Council's Presenting Officer.

- The Council's Presenting Officer will notify the HR Adviser, at least five working days in advance of the hearing, of the names of any witnesses they intend to call. At least five working days before the appeal, the Presenting Officer will copy any new documentation to the HR Adviser which they wish to introduce into the proceedings. The HR Adviser will copy this information to the Appeal Committee / Appeal Hearing Officer and to the employee or their representative.

Procedure to be followed at Appeal Hearings

- The Chair of the Appeal Committee (Appeal Hearing Officer for appeals against warnings) will introduce those present, and confirm the status and purpose of the hearing, and the procedure to be followed.
- The Chair will inform all parties that the hearing may be adjourned at any stage at the request of either side, depending on the nature of the request.
- The Presenting Officer will present a report setting out the evidence leading to the decision taken. Previous evidence agreed between the parties prior to the Appeal hearing and given in advance to the Appeal Committee will not be represented.
- The Presenting Officer for both sides will call such witnesses as may be necessary. However, any witnesses whose evidence is not challenged will not be called.
- The employee and the representative may ask questions of any witnesses called.
- The Presenting Officer or their adviser may re-examine the witnesses.
- The employee or the representative will make a submission as to why the decision taken should not be upheld.
- The Presenting Officer or their adviser may ask questions of the witnesses and of the employee.
- The employee or representative may re-examine the witnesses.
- Members of the Appeals Committee / Appeal Hearing Officer and their HR adviser may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of the witnesses by the parties is completed. The witnesses will leave once all questioning is completed.
- The Presenting Officer will be invited to make a closing statement.

- The employee or the representative will be invited to make a closing statement.

- The Appeal Hearing Officer / Chair will ask all parties (with the exception of the adviser) to leave the room whilst they / the Appeals Committee deliberates. At this point the Chair / Appeal Hearing Officer will inform both parties when a decision will be reached and how this will be communicated to them.
- The decision may be communicated to the parties orally on the day of the hearing. Alternatively, it may be necessary to notify the parties in writing at a later stage.
- The Appeal Committee / Appeal Hearing Officer may recall witnesses or call for further evidence on specific points. If this occurs after the hearing has taken place, both parties should be recalled and advised.
- Witnesses will leave the hearing after giving their evidence and answering any questions put to them. The Presenting Officer will however be entitled to be accompanied throughout the hearing by a senior officer from the appellant's employing department, after they have given any evidence to the hearing.

Procedure to be followed after an Appeal

- Following the re-hearing, the Adviser to the Appeal Committee / Appeal Hearing Officer will write to the employee, notifying them of appeal decision (even if they were orally told of the decision on the day itself), and the reasons for it. A second copy should be sent to the employee who should be asked to sign and return this copy as an acknowledgement. A third copy of the letter will also be sent to the employee for their use.
- The letter should also make it clear that the decision is the final stage of the appeals procedure.